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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/059,164

01/31/2002

Jose Bustos

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1059

7590

03/13/2003

BERESKIN AND PARR
SCOTIA PLAZA
40 KING STREET WEST-SUITE 4000 BOX 401
TORONTO, ON M5H 3Y2
CANADA

EXAMINER

PRITCHETT, JOSHUA L

ART UNIT

PAPER NUMBER

2872

DATE MAILED: 03/13/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/059,164

Applicant(s)

BUSTOS, JOSE

Examiner

Joshua L Pritchett

Art Unit

2872

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 31 January 2002 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on ____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 2.
- 4) ☐ Interview Summary (PTO-413) Paper No(s) ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

DETAILED ACTION

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 10-19 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

a) Claim 10 recites the limitation "the shape" in line 8. There is insufficient antecedent basis for this limitation in the claim.

b) The remaining claims are dependent from the rejected claim and therefore inherit the deficiencies thereof.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 10-11 are rejected under 35 U.S.C. 102(b) as being anticipated by Tu (US 6,130,790).

Regarding claim 10, Tu discloses a rearview mirror assembly comprising a telescopic main body extending generally perpendicularly to the housing and the windshield (Fig. 1) comprising a cylinder having a closed end adjacent the housing and an open end adjacent the surface (Fig. 2), a shaft shaped to slidably fit within the cylinder through the open end (Fig. 2) and a securing means (88) for adjustably securing the shaft in a set position (Fig. 1). Tu further discloses a first joint mechanism (68) extending from the closed end of the cylinder pivotally connecting the cylinder to the housing (Fig. 1). Tu further discloses a second joint mechanism (66) extending from the shaft for rotatably connecting the shaft to the windshield (Fig. 1).

Regarding claim 11, Tu discloses the securing means comprises a keyed surface (40) in the shaft, a set screw (88) within a threaded aperture in the side of the cylinder (82 and 84), the set screw being releasably tightenable against the shaft (col. 3 lines 18-20).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-4, 6-9 and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Skiver (US 6,329,925) in view of Tu (6,130,790).

Regarding claim 1, Skiver teaches a rearview mirror apparatus for mounting to the inside of the front windshield comprising an elongated mirror housing (12) shaped to extend along a longitudinal axis substantially across a top portion of the windshield (Fig. 1), the housing having an elongated front opening (Fig. 2). Skiver teaches a planar mirror (14) mounted within the opening (Fig. 1) wherein the mirror is disposed in a plane extending at an angle to the longitudinal axis of the housing (Fig. 3). Skiver teaches a single mount to connect the housing to the windshield but lacks a pair of mounts. Tu teaches the use of two mounts (18) to secure the rearview mirror to the windshield (col. 2 lines 22-25). It would have been obvious to a person of ordinary skill in the art at the time the invention was made to include a pair of mounts for the mirror as taught by Tu in the Skiver invention for the purpose of added safety to prevent injury to the driver or passenger, if one of the mounts happened to disengage from the windshield.

Regarding claim 2, Skiver teaches the housing comprising a back wall extending in a first plane parallel to the longitudinal axis (Fig. 1), an integral top and bottom portion (Fig. 1) wherein the top and bottom portion have front edges which together define a front surface extending in a second plane offset at an angle to the first plane (Fig. 3), wherein the front surface defines an opening shaped for receiving the mirror (Fig. 2).

Regarding claim 3, Shiver teaches the front opening and the mirror being generally rectangular in shape (Fig. 2).

Regarding claim 4, Shiver teaches the front surface has a lip portion for retaining the mirror within the housing (Fig. 3).

Regarding claims 6, 7 and 20, Skiver teaches the invention as claimed but lacks reference to the mounts having a telescopic body. Tu teaches the use of rearview mirror mounts with telescopic bodies (Fig. 1). Tu further teaches the telescopic body comprises a cylinder having a closed end adjacent to the housing an open end adjacent the windshield, a shaft shaped to slidably fit within the cylinder through the open end and a securing means (88) for adjustably securing the shaft in a set position (Fig. 2). Tu teaches the use of the securing means being a screw (88) shaped to fit into a threaded aperture (84 and 86). It would have been obvious to a person of ordinary skill in the art at the time the invention was made to equip the Skiver mirror mounts with the telescopic body taught by Tu for the purpose of extending the mirror so that people of different height can adjust the mirror to properly see objects behind them.

Regarding claim 8, Skiver teaches the invention as claimed but lacks reference to a joint extending from the closed end of the cylinder. Tu teaches the use of a first joint mechanism (68) extending from the closed end of the cylinder for pivotally connecting the cylinder to the housing, wherein the first joint mechanism is operable to pivot the housing about a pivot axis parallel to and spaced from the longitudinal axis of the housing (Fig. 1). It would have been obvious to a person of ordinary skill in the art at the time the invention was made to equip the Skiver mirror mounts with the adjustable mount taught by Tu for the purpose of extending the mirror so that people of different height can adjust the mirror to properly see objects behind them.

Regarding claim 9, Skiver teaches the invention as claimed but lacks reference to the use of a second joint mechanism. Tu teaches the use of a second joint mechanism (66) extending from the shaft for rotatably connecting the shaft to the windshield (Fig. 1). It would have been

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obvious to a person of ordinary skill in the art at the time the invention was made to equip the Skiver mirror mounts with the adjustable mount taught by Tu for the purpose of extending the mirror so that people of different height can adjust the mirror to properly see objects behind them.

Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Skiver in view of Tu as applied to claim 1 above, and further in view of Goosen (US 4,932,769).

Skiver in combination with Tu teaches the invention as claimed but lacks the mirror being wedge shaped. Goosen teaches the use of a wedge shaped rearview mirror (Fig. 2). The positioning of the different sides of the wedge shape is well within the skill of one ordinarily trained in the art. It would have been obvious to a person of ordinary skill in the art at the time the invention was made to equip the Skiver mirror with the wedge shaped mirror as taught by Goosen for the purpose of providing the driver with a wider angle of view and thus reducing the area which the driver is unable to see in the rearview mirror.

Claims 12-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Tu in view of Sorenson (US 6,039,455).

Regarding claims 12-15, Tu teaches the invention as claimed but lacks reference to the first joint being a U-shaped bracket with flange. Sorenson teaches a joint for a rearview mirror comprising an annular flange (54) and a U-shaped bracket (72) with the side portions of the U-shaped bracket spaced apart to receive the flange (Fig. 7). Sorenson further teaches the annular flange has a central aperture and the U-shaped bracket having apertures that register with the

annular flange aperture (Fig. 7). Sorenson further teaches a fastener (73) to releasably attach the flange to the U-shaped bracket by sliding through the apertures (Fig. 7). It would have been obvious to a person of ordinary skill in the art at the time the invention was made to use the U-shaped bracket and flange joint taught by Hoek as the first joint of the Tu invention for the purpose of limiting the movement of the joint in a single direction.

Claims 15-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Tu in view of Sorenson as applied to claim 14 above, and further in view of Official Notice.

Regarding claim 15, Tu in combination with Sorenson teaches the invention as claimed but lacks reference to the sides of the flange being serrated. Official Notice teaches that it is well known and commonly used in the art to have a flange with serrated sides, to create a stronger connection between the flange and the U-shaped bracket. It would have been obvious to a person of ordinary skill in the art at the time the invention was claimed to have the flange of the Tu in combination with Sorenson have serrated sides as taught by Official Notices for the purpose of holding the rearview mirror in place after the desired adjustments have been made to the mirror positioning.

Regarding claims 16-18, Tu teaches the second joint mechanism comprising a ball (66) extending from the end of the shaft and a socket (48) portion attachable to the windshield, wherein the ball is shaped to fit within the socket. Tu further teaches the socket portion (48) comprises a socket attached to a base (38), wherein the base includes a flat base plate. Tu further teaches the base plate attached to the socket at an eccentric angle (Fig. 1).

Regarding claim 19, Tu in combination with Sorenson teaches the invention as claimed, but lack specific reference to the mounts having a pocket portion to adhesively couple the mounts to the windshield and receive the base plate. Official Notice teaches that it is currently commonly practice to have a pocket portion in a rearview mirror mount to slide over a base plate adhesively attached to the windshield to attach the mount to the windshield. It would have been obvious to a person of ordinary skill in the art at the time the invention was made to equip the Tu invention with a pocket portion to attach it to the windshield of a vehicle of the purpose of added safety in the event that the Tu suction cups (18) lose the hold on the windshield.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Wellington (US 5,327,288) teaches an adjustable rearview mirror assembly.

Mertens (US 6,227,675) teaches an adjustable rearview mirror assembly.

Hoek (US 6,113,241) teaches a rearview mirror mount with a U-bracket and an annular flange.

Alten (US 4,770,522) teaches a rearview mirror mount adjustable by two appendages.

Spooner (US 5,820,097) teaches a mounting means for connecting a rearview mirror to a windshield.

Menefee (US 6,412,965) teaches the use of a U-shaped bracket with an annular flange in mirror mounting.

Rumsey (US 5,984,482) teaches the use of a ball in socket joint in combination with an annular flange.

Desmond (US 5,572,354) teaches the use of a ball in socket joint with a flange attached to the ball.

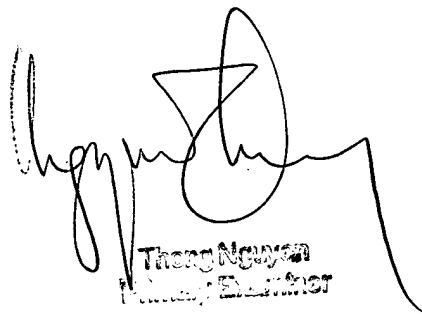
Brester (US 4,623,115) teaches the use of a serrated flange to hold a mirror in place after adjustment.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joshua L Pritchett whose telephone number is 703-305-7917. The examiner can normally be reached on Monday - Friday 7:00 - 3:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Cassandra Spyrou can be reached on 703-308-1687. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9318 for regular communications and 703-872-9319 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0956.

JLP
March 5, 2003



Thanh Nguyen
Primary Examiner